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March 31, 2015

Margaret Herring  
Civil Investigator  
U.S. Environmental Protection Agency  
Region 5  
Superfund Division  
Enforcement and Compliance Assurance  
Branch (SE-5J)  
77 West Jackson Blvd  
Chicago, IL 60604-3590

Re: Response to Request for Information Pursuant to CERCLA § 104, South Dayton  
Dump & Landfill Site, Moraine, Ohio (the "Site")

Dear Ms. Herring:

ConAgra Grocery Products Company, LLC ("CGPC") provides this response to the CERCLA § 104 Information Request issued to it by the United States Environmental Protection Agency in connection with its January 16, 2015 Special Notice Letter.

CGPC denies that it is a potentially responsible party and it has any liability under CERCLA relating to the Site. CGPC has carried out a search for the information requested within its company records and has participated in litigation discovery with respect to the Site in *Hobart et al. v. The Dayton Power & Light Company, et al.*, Case No. 3:13-cv-115, in the United States District Court, Southern District of Ohio, Western Division. Based on CGPC's investigation and the discovery conducted to date in the *Hobart* litigation, there is no credible evidence to establish that CGPC, directly or indirectly, contributed waste to the Site.

### **GENERAL OBJECTIONS AND RESPONSES**

1. CGPC objects to each and every Request to the extent that it seeks information that is beyond the scope of the requirements of CERCLA § 104, 42 U.S.C. § 9604.
2. CGPC objects to each and every Request to the extent that it seeks information that is overly broad, overly burdensome, speculative, vague, ambiguous, and not reasonably calculated to lead to the disclosure of information pertinent to the Site.
3. CGPC objects to the definition of "Facility" or "Facilities" as overly broad, vague, and ambiguous.
4. CGPC answers are limited to information related to the Site.
5. CGPC objects to each and every Request to the extent it is unlimited in time. CGPC limits its Responses to the Requests to the time period from 1941 to 1996.

6. CGPC objects to each and every Request to the extent it seeks information protected by the attorney-client privilege; work product immunity; or contains counsel's mental impressions.

7. CGPC's response is a result of an investigation of historical company information, as well as based upon information currently available to CGPC. CGPC reserves the right to revise, amend and/or update the responses in the future if CGPC obtains additional relevant or responsive information.

Subject to and without waiver of the foregoing objections and comments, CGPC has made a reasonable and diligent search and inquiry for the requested information and responds as follows:

1. Identify all persons consulted in the preparation of the answers to these questions.

**RESPONSE NO. 1:** This is a corporate response provided on behalf of CGPC. This response is based upon information provided or researched by CGPC's employees or its counsel and upon records regularly kept by CGPC in the ordinary course of business. Kenneth Anderson and CGPC documents were consulted in preparation of these responses. Kenneth Anderson can be contacted through CGPC's counsel, McGrath North Mullin & Kratz, PC LLO, First National Tower, Suite 3700, 1601 Dodge Street, Omaha, NE 68102, Attn: John A. Andreasen.

2. Identify all documents consulted, examined or referred to in the preparation for the answers to these questions, and provide copies of all such documents.

**RESPONSE NO. 2:** McCall Corporation operated a printing business in Dayton, Ohio. In 1968, Norton Simon, Inc. acquired McCall Corporation. In 1975, Norton Simon, Inc. sold the Dayton Printing Division of McCall Corporation, located in Dayton, Ohio to The Charter Company. In 1984, Norton Simon, Inc. was acquired by a predecessor in interest to CGPC. All corporate documents and records of the Dayton Printing Division of McCall Corporation were transferred to The Charter Company at the time of the 1975 sale. Norton Simon, Inc. did not retain any of the corporate records and CGPC doesn't have any information regarding the history and operations of the Dayton Printing Division.

3. If you have reason to believe that there may be persons able to provide a more detailed or complete response to any question or who may be able to provide additional responsive documents, identify such persons. Provide their current, or last known, address, telephone numbers, and e-mail address.

**RESPONSE NO. 3:** CGPC has no information regarding any persons able to provide additional responsive information or additional responsive documents to these requests other than as identified in Response No. 1.

4. Provide names, addresses, telephone numbers, and e-mail addresses of any individuals, including former and current employees, who may be knowledgeable about Respondent's operations and hazardous substances handling, storage and disposal practices.

**RESPONSE NO. 4:** CGPC has no information regarding any persons who may have knowledge about the operation and waste storage and disposal practices of the Dayton Printing Division.

5. State the date(s) on which the Respondent sent, brought or moved drums and/or hazardous substances to the South Dayton Dump and Landfill (SDDL) Site and the names, addresses, telephone numbers, and e-mail addresses of the persons(s) making arrangements for the drums and/or hazardous substances to be sent, brought or moved to the SDDL Site.

**RESPONSE NO. 5:** CGPC has not identified any information that McCall Corporation sent any waste to the South Dayton Dump & Landfill and, therefore, has no information responsive to this request.

6. Did Respondent haul or send materials to SDDL in vehicles it owned, leased or operated? If yes, during what time periods did this occur? If no, how did Respondent transport materials to SDDL? Identify the hauler(s) and provide the addresses, telephone numbers, and e-mail addresses of these entities.

**RESPONSE NO. 6:** CGPC has no information that McCall Corporation sent any waste to the South Dayton Dump & Landfill and, therefore has no information responsive to this request.

7. List all federal, state and local permits and/or registrations and their respective permit numbers issued to Respondent for the transport and/or disposal of materials.

**RESPONSE NO. 7:** CGPC has no information responsive to this request regarding McCall Corporation.

8. Which shipments or arrangements were sent under each permit? If what happened to the hazardous substances differed from what was specified in the permit, please state, to the best of your knowledge, the basis or reasons for such difference.

**RESPONSE NO. 8:** CGPC has no information responsive to this request regarding McCall Corporation.

9. Were all hazardous substances transported by licensed carriers to hazardous waste Treatment Storage and Disposal Facilities permitted by the U.S. EPA?

**RESPONSE NO. 9:** CGPC has no information responsive to this request regarding McCall Corporation.

10. List all federal, state and local permits and/or registrations and their respective permit numbers issued for the transport and/or disposal of wastes.

**RESPONSE NO. 10:** CGPC has no information responsive to this request regarding McCall Corporation.

11. Does your company or business have a permit or permits issued under Resource Conservation and Recovery Act? Does it have or has it ever had, a permit or permits under the hazardous substance laws of the State of Ohio? Does your company or business have an EPA

Identification Number, or an identification number supplied by the State Environmental Protection Agency? Supply any such identification number(w) your company or business has.

**RESPONSE NO. 11:** CGPC has no information responsive to this request regarding McCall Corporation.

12. Identify whether Respondent ever filed a Notification of Hazardous Waste Activity with the EPA or the corresponding agency or official of the State of Ohio, the date of such filing, the wastes described in such notice, the quantify thereof described in such notice, and the identification number assigned to such facility by EPA or the stat agency or official.

**RESPONSE NO. 12:** CGPC has no information responsive to this request regarding McCall Corporation.

13. Identify all individuals who currently have and those who have had responsibility for Respondent's environmental matters (e.g. responsibility for the disposal, treatment, storage, recycling, or sale of Respondent's wastes). Also provide each individual's job title, duties, dates performing those duties, supervisors for those duties, current position or the date of the individual's resignation, and the nature of the information possessed by such individuals concerning Respondent's waste management. For each individual identified in response to this question provide the current or most recent known address, telephone number and e-mail address.

**RESPONSE NO. 13:** CGPC has no information responsive to this request regarding McCall Corporation.

14. Describe the containers used to take any type of waste from Respondent's operation, including but not limited to:

- a. the type of container (e.g. 55 gal. drum, dumpster, etc.);
- b. the colors of the containers;
- c. any distinctive stripes or other markings on those containers;
- d. any labels or writing on those containers (including the content of those labels);
- e. whether those containers were new or used; and
- f. if those containers were used, a description of the prior use of the containers.

**RESPONSE NO. 14:** CGPC has no information responsive to this request regarding McCall Corporation.

15. For any type of waste describe Respondent's contracts, agreements, or other arrangement for it disposal, treatment, or recycling. Provide copies of all documents relating to the transportation or disposal of said waste, including correspondence and manifests. Include all correspondence and records of communication between Respondent and Cyril Grillot, Kenneth Grillot, Alcine Grillot, or Horace Boesch, Sr.

**RESPONSE NO. 15:** CGPC has no information responsive to this request regarding McCall Corporation.

16. Provide copies of such contracts and other documents reflecting such agreements or arrangements.

- a. State where Respondent sent each type of its waste for disposal, treatment, or recycling.
- b. Identify all entities and individuals who picked up waste from Respondent or who otherwise transported the waste away from Respondent's operations (these companies and individuals shall be called "Waste Carriers" for purposes of this Information Request).
- c. If Respondent transported any of its wastes away from its operations, please so indicate and answer all questions related to "Waste Carriers" with reference to Respondent's actions.
- d. For each type of waste specify which Waste Carrier picked it up.
- e. For each type of waste, state how frequently each Waste Carrier picked up such waste.
- f. For each type of waste state the volume picked up by each Waste Carrier (per week, month, or year).
- g. For each type of waste state the dates (beginning & ending) such waste was picked up by each Waste Carrier.
- h. Provide copies of all documents containing information responsive to the previous seven questions.
- i. Describe the vehicles used by each Waste Carrier to haul away each type of waste including but not limited to:
  - i. the type of vehicle (e.g., flatbed truck, tanker truck, containerized dumpster truck, etc.);
  - ii. names or markings on the vehicles; and
  - iii. the color of such vehicles.
- j. Identify all of each Waste Carrier's employees who collected Respondent's wastes.
- k. Indicate the ultimate disposal/recycling/treatment location for each type of waste.
- l. Provide all documents indicating the ultimate disposal/recycling/treatment location for each type of waste.

- m. Describe how Respondent managed pickups of each waste, including but not limited to:
  - i. the method for inventorying each type of waste;
  - ii. the method for requesting each type of waste to be picked up;
  - iii. the identity of (see Definitions) the waste carrier employee/agent contacted for pickup of each type of waste;
  - iv. the amount paid or the rate paid for the pickup of each type of waste;
  - v. the identity of (see Definitions) Respondent's employee who paid the bills; and
  - vi. the identity of (see Definitions) the individual (name or title) and company to whom Respondent sent the payment for pickup of each type of waste.
- n. Identify the individual or organization (i.e., the Respondent, the Waste Carrier, or, if neither, identify such other person) who selected the location where each of the Respondent's wastes were taken.
- o. State the basis for and provide any documents support the answer to the previous question.
- p. Describe all wastes disposed by Respondent into Respondent's drains including but not limited to:
  - i. the nature and chemical composition of each type of waste;
  - ii. the dates on which those wastes were disposed;
  - iii. the approximate quantity of those wastes disposed by month and year;
  - iv. the location to which these wastes drained (e.g. on-site septic system, onsite storage tank, pre-treatment plant, Publicly Owned Treatment Works (POTW), etc.); and
  - v. whether and what pretreatment was provided.
- q. Identify any sewage authority or treatment works to which Respondent's waste was sent.
- r. If not already provided, specify the dates and circumstances when Respondent's waste was taken to the SDDL Site, and identify the companies or individuals who brought Respondent's waste to the Site. Provide all documents which support or memorialize your response.

**RESPONSE NO. 16:** CGPC has no information responsive to this request regarding McCall Corporation.

17. Provide all Resource Conservation and Recovery Act (RCRA) Identification Numbers issued to Respondent by EPA or a state for Respondent's operations.

**RESPONSE NO. 17:** CGPC has no information responsive to this request regarding McCall Corporation.

18. Identify (see Definitions) all federal offices to which Respondent has sent or filed information about hazardous substance or hazardous waste.

**RESPONSE NO. 18:** CGPC has no information responsive to this request regarding McCall Corporation.

19. State the years during which such information was sent/filed.

**RESPONSE NO. 19:** CGPC has no information responsive to this request regarding McCall Corporation.

20. Identify (see Definitions) all state offices to which Respondent has sent or filed hazardous substance or hazardous waste information.

**RESPONSE NO. 20:** CGPC has no information responsive to this request regarding McCall Corporation.

21. State the years during which such information was sent/filed.

**RESPONSE NO. 21:** CGPC has no information responsive to this request regarding McCall Corporation.

22. List all federal and state environmental laws and regulations under which Respondent has reported to federal or state governments, including but not limited to: Toxic Substances Control Act, 15 U.S.C Section 2601 et seq., (TSCA); Emergency Planning and Community Right-to-Know Act, 42 U.S.C. Sections 1101 et seq., (EPCRA); and the Clean Water Act (the Water Pollution Prevention and Control Act), 33 U.S.C. Sections 1251 et seq.; Solid Waste and Infectious Waste Regulations, OAC 3745-27 (former rule EP-20); Licenses for Solid Waste, Infectious Waste Treatment, or Construction and Demotion Debris Facilities, OAC 3745-37 (former rule EP-33); Solid and Hazardous Wastes, ORC 3734-01 through 3734-11; Open Burning Standards, OAC 3745-19-03.

**RESPONSE NO. 22:** CGPC has no information responsive to this request regarding McCall Corporation.

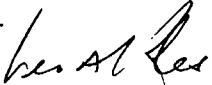
23. Identify the federal and state offices to which such information was sent.

**RESPONSE NO. 23:** CGPC has no information responsive to this request regarding McCall Corporation.

**VERIFICATION**

I declare under the penalty of perjury that I am authorized to respond on behalf of ConAgra Grocery Products Company, LLC to the foregoing requests for information and that the foregoing responses are complete, true and correct.

Date: 3/31/15

  
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Leo A. Knowles, President  
ConAgra Grocery Products Company, LLC



# McGrath | North

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03/31/2015

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